



The Salisbury Planning Board held its regular meeting Tuesday, February 23, 2010, in the City Council Chamber at Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Karen Alexander, Mark Beymer, Robert Cockerl, Tommy Hairston, Richard Huffman, Albert Stout, Bill Wagoner and Diane Young

ABSENT: Valarie Stewart

STAFF: Dan Mikkelson, Preston Mitchell, Diana Moghrabi, David Phillips and Patrick Ritchie

This meeting was digitally recorded for *Access 16* television by Jason Parks.

Robert Cockerl called the meeting to order and offered an invocation. The Planning Board adopted the agenda as submitted. The minutes of the February 9, 2010 meeting were approved as submitted.

OLD BUSINESS

A. Special Exception

SE-01-10: Frontage Width Special Exception request for 127 Mitchell Avenue

Preston Mitchell explained the procedure. The chair swore in persons who wished to speak. An error in the public notifications was discovered at the previous meeting. Public notifications were corrected and properly mailed.

Patrick Ritchie, Subdivision Administrator for the City of Salisbury, made a staff presentation.

Owner:	JKL Ltd.
Tax Map: 014	Parcel: 287
Existing frontage width:	100' (99.99' surveyed)
Requested number of lots:	Two requested frontage widths: 50.59' and 49.40'
Frontage width required by LDO Infill Standards:	73' (Average of comparison lot widths)

This is an evidentiary hearing. This is different from a Special Use Permit; with a Special Use Permit, if the findings of fact are all met, you are required to approve. In the case of the Subdivision Special Exception, the Planning Board is not required to approve; it can make a decision based on the facts.

Responses to standards for frontage width special exception review:

- i. Requested frontage width is not less than the minimum frontage width required by the LDO: *49.40' > 30' (Required HR zoning with house type building) This standard is met.*
- ii. Requested frontage width is not less than 90% of the narrowest frontage width of the comparison lots: *49.4' > 45' (90% of 50') This standard is met.*
- iii. Requested frontage width/subdivision will not create or increase any known non-conformities: *It will not.*
- iv. Requested frontage width is uniform from the front to the rear of the property: *It is.*

The proposed subdivision meets the provisions of Land Development Ordinance Section 6.3.E.3 as stated above and may be considered by the Planning Board as a Special Exception. The Special Exception may be approved by the Board if it is deemed appropriate after conducting the required evidentiary hearing.

Consideration factors for frontage width special exception review. In applying the standards, the Planning Board shall consider each of the following factors:

- i. The minimum frontage width, as requested, or some modification thereof and subsequent subdivision do not negatively impact the provision of city services or utilities.
- ii. The applicable comparison lots adequately represent the larger surrounding area.
- iii. Natural or man-made features of the land help or hinder the minimum frontage width as required and requested.

Those speaking in opposition:

Shakeisha Gray (425 Elm Street) is the current president of the Fulton Heights Neighborhood Association. She spoke on behalf of the association board.

“First, from our understanding, the current owner did not feel this property was marketable in its current state. While most of the properties in our neighborhood do sit on smaller lots, most of the neighbors would agree that a larger lot would be nice.”

“Typically, properties of what we call ‘double lots’ are more marketable. Those properties tend to be of higher value and in a historic residential neighborhood like Fulton Heights where space is limited; homes with bigger lots are more desirable. (Real Estate records can show that.)”

“Second, given the current LDO guidelines pertaining to setbacks and utility easements and from our rough calculations that board members have done, the width of any house that could potentially be built on the new smaller lots would only measure approximately 29 feet wide. In consideration to the adjacent homes, particularly the ones on either side of the lot in question, this new home would be considerably smaller. We feel this would not fit with the look and feel of our neighborhood in that particular block.”

“It is the official stance of the Fulton Heights Neighborhood Association that we do not support the subdivision of the lot. Fulton Heights does not want to seclude anyone from the neighborhood; we just hope to preserve the continuity of the beautiful historic district in which we currently live.” Neighbors were asked to stand. (5)

Those speaking in favor:

Jim Lafevers of 424 De Lara Circle, Granite Quarry, is President of JKL Images and the current owner of the property at 127 Mitchell Avenue. He made improvements inside and outside of the home at 127 Mitchell Avenue. They have accepted the single contingent offer they have received for the asking price of \$189,000; however, the sale is conditional on the sale of the buyer’s home. He is working with Wallace Realty, using every tool in their tool belt to “stop the financial bleeding from the current economy.” He will continue to look for a buyer in the event that their house does not close by April 30.

You can build a house more than 30 feet wide. It has to have 10-foot side setbacks, so you could have almost a 40-foot wide house there.

“We will do our most to respect existing and surrounding areas. We may even use the property for our own, personal use. We may have to sell our residence in Granite Quarry. Anything we build will enhance the area and add to the tax base of Salisbury.”

“The house that is on the property now is 42 feet wide. You could build a house within three feet [the size] of the house that is there now.” You could build a house very similar to the one that is there now.

Board discussion

Mark Beymer stated, “My belief is that, while we do consider exceptions, this exception is quite a variance from what we presently have in place around the mean size of those comparison lots. I quite understand the concerns of the homeowners association and will be voting against it.”

Diane Young, “The requested frontage width is 64 percent of the frontage width required by the LDO infill standards. To me that is a huge gap between the width that you come up with using the comparison lots versus what is being requested.” We have many 50-foot lots in Fulton Heights, but the infill standards have a formula that is used to calculate if a particular lot width is acceptable given the lot immediately adjacent to it (within so many feet). I believe that creating a 50-foot lot and a 49-foot lot in this particular block or streetscape would not serve this block well; therefore, I will be voting against it.”

Ms. Young continued, “The factors were discussed at the last meeting. At that time we went through each of them and decided that all of those are met with this application.” The application can still be denied. Mark Beymer support Ms. Young and added that this proposes a change of character to the neighborhood.

“If it was located in a different block, such as the 100 block of Maupin Avenue, and you used those comparison lots, it would probably work. If we are not going to use the LDO infill standards in the way you use comparison lots adjacent to the property...I question why we have that formula in our ordinance to begin with.” Ms. Young reminded the Planning Board that, “The requested width is only 64 percent of the 73 feet required by the LDO infill standards.”

Dick Huffman commented that current planning practices bring lots closer together. In his opinion, this is not out of character. Mark Beymer disagreed.

Karen Alexander said she is in favor of the application and supports Mr. Huffman’s view. It meets standards and consideration factors.

Bill Wagoner does not believe that this is out of character with the neighborhood. He described the three hundred block of Mitchell Avenue and felt it was in keeping with the character.

Karen Alexander made a MOTION to approve Special Exception SE-01-10: Frontage Width Special Exception request for 127 Mitchell Avenue. Dick Huffman seconded the motion. The motion was approved (6-2) Diane Young and Mark Beymer voted in opposition. This will come to City Council March 16, 2010.

Mr. Truemper spoke out of order to voice his displeasure with the decision.

NEW BUSINESS

A. District Map Amendment

- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Statement of Consistency
- Recommendation to City Council

LDOZ-04-2010 Leatherman

Owner(s)	John & Evelyn Leatherman
Address	Unnumbered Henderson Grove Church Road
Tax Map/Parcel	400-0070001
Size / Scope	Approximately 24 acres (1 parcel)
Location	Located along Henderson Grove Church Road just east of the railroad tracks

From LIGHT INDUSTRIAL (LI) to HEAVY INDUSTRIAL (HI)

The Chair read the procedures for a courtesy hearing. Preston Mitchell made a staff report which recommended approval subject to the rezoning of the homes along Jacob Bost Road to GR6. The petitioner opted to take six minutes at the end of public comment for his comments.

This request to rezone land within the I-85 / US-29 corridor is the first attempt since the recent construction of the Town Creek Sewer Interceptor line. This new sewer line, which is under construction from Salisbury to China Grove, is the latest in the city and county's efforts to expend significant capital dollars on infrastructure that should stimulate industry and development in this important transportation corridor. This is a pronounced growth area for the City of Salisbury and Rowan County.

The area is presently undeveloped. Mr. Mitchell reviewed the Vision 2020 Comprehensive Plan Policies that applied to this request and were made available in his written staff report. This report was included in the Planning Board agenda packet. He believes the request is consistent with the "Vision 2020" plan. Mr. Mitchell reviewed the uses included and excluded in the requested zoning.

The proposed heavy manufacturing is defined in the LDO as a manufacturing process that could produce noise, odor and possible glare. Light industrial has to occur indoors and heavy industrial can occur out-of-doors. Height of buildings would be restricted only by the airport overlay.

The zoning buffer in the staff report was stated incorrectly. However, the residential area along Jacob Bost Road could be rezoned from LI to GR6 to trigger a 150-foot buffer on a portion of the property and take the residential section out of non-conformity. This would also trigger 150-foot exterior development setback along the residentially-zoned area.

Previously, the area was largely M-1 and converted to LI when the new Land Development Ordinance (LDO) was adopted. In the old code, uses were cumulative.

John Leatherman and Kirby Ritchie requested to expand the area of rezoning to the centerline of Town Creek after the notifications.

Those Speaking in Opposition

Henry Saine of 1351 Henderson Grove Church Road addressed the Planning Board. He has lived at this address over 30 years and he opposes the rezoning. The topography runs downhill to the creek, the soil is of poor quality and the area floods. Neither the road nor the bridge will support heavy traffic. The future of the railroad is questionable. The types of manufacturing possibilities are undesirable for residents of the area.

Jessie Watson of 835 Peach Orchard Road owns property on Henderson Grove Church Road. A couple of years ago there was another case regarding the south side of Town Creek. All the previous arguments are true today. He supported comments made by Henry Sane. This affects a community that has existed with a good quality of life for over

200 years. They would support something like an office park but not heavy industrial uses.

Nancy Safrit of 1125 Henderson Grove Church Road supported Mr. Saine's and Mr. Watson's comments. She has lived in this community 48 years. The preservation of nature, safety for existing schools and churches, as well as potential flooding is of concern to her.

Those Speaking in Favor

Dyke Messinger of 18 Oak Road said that his company, Southern Equipment Service, owns the property directly across from the property in question (across Henderson Grove Church Road and down close to the creek). He supports the request. "To us it is clearly industrial property." The railroad track already generates noise and pollution. This is at the far end of the residential area. The church is a long way down from the property. Our former property on Long Street and Bringle Ferry Roads was very close to a church and the Sedgefield Acres neighborhood, and it worked well.

This city and this county need to offer more building sites for heavy industrial business. Environmental regulations and codes will govern the way a business can treat a piece of land and the environment. He urged the planning board not to be swayed by emotional stories of how bad a business can be; the businesses produce jobs which are good for the economic development of our area.

Robert Van Geons of 615 South Church Street is the executive director of the Rowan County Economic Development Commission. One of the goals of the EDC is to identify, pursue and promote sites for non-residential investment and job creation—"Specifically where we have a critical nexus of infrastructure, like we do here."

You must have non-residential development in order to provide the jobs and tax revenue necessary to sustain your operation as a community. Residential development does not carry the cost required to serve it. Other considerations include diversification of the economy and personal property rights.

He made example of the following EDC projects: A \$150 million thermal press operation that needs high towers and would create 80 jobs; a \$1 million sustainable-building components manufacturer that would create 40 jobs; The Hinkle Project (under construction)—a \$23 million project adding 103 jobs to our market. The one thing these projects have in common is the fact that there is little to no land suitably zoned and available with proper infrastructure within the Salisbury city limits.

Mr. Van Geons recommended looking at the entire corridor where there is rail, water/sewer, and other industry. It would be important to plan how we should grow in this area. Proactively rezoning would be preferable to split-zoning the parcel.

John Leatherman (120 Gregory Road) and **Glenn Ketner** (121 East Kerr Street) addressed the Planning Board. Mr. Leatherman stated that he has owned and paid taxes on the land for about 20 years. He does not have anything “on the hook.”

Mr. Ketner stated that they have no objection to an additional buffer with respect to the residential zoning. They also have no objection to Mr. K. Ritchie’s request to also be considered in the rezoning; Town Creek is a better place to draw this line.

The subject property has the character and nature that is consistent with the HI zone. It is proximate to Highway 29; it is in the 29/I85 corridor which had been identified for growth. It is near the Town Creek interceptor line. If this site is not suitable for HI, what is?

Salisbury must have growth in manufacturing/industrial area. We need jobs. We need to give Mr. Van Geons another tool to put in his bag to promote economic growth.

Board Discussion

There was a discussion on County industrial zoning sites. Mr. Van Geons said the County doesn’t really have a pool of appropriate heavy industrial sites available. Some are between Webb and Peeler Roads (The Platinum Site), south of that there is the Corriher site. We have some without services on the exit of Long Ferry Road. With rail, we only have one on the Highway 29 corridor, and heading out Highway 70 the Performance Fiber site has a parcel adjacent to them. Often industry will not look at sites that are not suitably zoned. Salisbury/Rowan is competing with everyone in a 60-mile or 100-mile drive who has an interstate, rail and utilities. If it is in the county, it does not generate the tax revenue in Salisbury.

This is different from the case heard about two years ago in the distance to residential area. (It was closer to the rural residential area.) That property then was not contiguous to railroad.

Bill Wagoner made a MOTION to exclude the additional two parcels from the rezoning consideration. Diane Young seconded the motion. It was approved 7-1. Dick Huffman opposed the motion.

Karen Alexander had concerns about changing the character and setting a precedent; she made the following MOTION and Statement of Consistency. “The Planning Board finds and determines that **LDOZ-04-2010 Leatherman** is not consistent with the goals and objectives and policies of the Vision 2020 Comprehensive Plan and hereby recommends denial.” Albert Stout seconded the motion. LDOZ-04-2010 Leatherman was denied 5-3. (Richard Huffman, Bill Wagoner and Mark Beymer were in favor of the rezoning.)

If the petitioner chooses, it will proceed to City Council March 16, 2010, with a recommendation from Planning Board to deny.

Diane Young made a MOTION to move the Planning Board meeting past 6 p.m. All agreed.

B. Text Amendments

- Staff Presentation
- Courtesy Hearing
- Board Discussion
- Statement of Consistency
- Recommendation to City Council

LDOTA-02-2010: Residential Signage

The residential signage section of Chapter 12 (Signs) of the Land Development Ordinance (LDO) details those signs (size & type) that are permitted for specific non-residential uses within residential zoning districts. Although very few in number, the residential zoning districts permit more than just residential uses, especially in the Rural Residential category where you may find animal services, kennels, or outdoor recreation.

This amendment adds many, but not all, of those uses that are permitted in the residential zoning districts to the list of uses that may have a ground or wall sign. It excludes some uses that require a Special Use Permit or Conditional District Overlay because those uses are sensitive in nature. In addition, it excludes residences because signage for Home Occupations is covered elsewhere in the LDO and this section of the sign code is primarily meant for non-residential uses within residential zoning districts.

Karen Alexander made a MOTION to approve LDOTA-02-2010. “The Planning Board finds and determines that LDOTA-02-2010 is consistent with the goals, objectives and policies of the Vision 2020 Comprehensive Plan and hereby recommends approval.” Diane Young seconded the motion with all members voting AYE. (8-0)

Planning Board took a 5-minute recess.

LDOTA-03-2010: Infill Subdivision Special Exceptions

Committee 3 met February 17 to discuss the procedures of Infill Subdivision Special Exceptions. Minutes of that meeting were distributed at this Planning Board meeting. Proposed language was submitted by staff.

Bill Wagoner, Committee Chair, asked staff to pull the following recommendations together for the February 23 Planning Board meeting. The Committee agreed by consensus.

- Broaden the notification process (same as a rezoning)
- Put up a sign (similar to a rezoning—staff will design)

- The comparison lots would be 300 feet, but don't let an intersection stop it. Use the broadest sense of comparison lots. (Staff asked for more direction. Mr. Mitchell turned to page 6-3 of the LDO)

C. General Provisions for Infill Compatibility

Some of the infill compatibility standards below require the determination of comparison lots or structures. The determination and exclusionary procedures are as follows:

1. Determining Comparison Lots or Structures

a. Use lots or structures along the same block face extending a minimum of 300 feet from the outside corners of the subject lot, **including those lots or structures across local streets but not including those across major or minor thoroughfares.**

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b. For corner lots or structures, use lots or structures along the respective street face extending a minimum distance of 300 feet from the outside corners of the subject lot, including those lots or structures across local streets but not including those across major or minor thoroughfares.

c. If the Administrator is unable to determine a comparison lot or comparison structure, as prescribed above, these infill standards shall not apply.

- Add to fee schedule \$250 for Special Exceptions

Dick Huffman recognized that there is no perfect solution. To Mr. Huffman the Special Exception was to improve some inequities where it "looks fine and great, but it is *this* short." Rather than a harsh result (six inches or a foot short) the idea of a special exception was created. The proposal is helpful.

Diane Young said, "Because we are allowed to give special exceptions, my goal was to be sure that proper notification, and enough notification is given, so the people this is going to affect the most (surrounding property owners and neighbors) are aware that someone has asked for a special exception—and they might get a special exception."

Ms. Young went on to make a MOTION to recommend the changes to LDOTA-03-2010. The following four items are consistent with our Vision 2020 Comprehensive Plan and will serve the community well.

- Broaden the notification process (same as a rezoning)
- Put up a sign (similar to a rezoning—staff will design)
- The comparison lots would be 300 feet, but don't let an intersection stop it. Use the broadest sense of comparison lots.
- Add to fee schedule \$250 for Special Exceptions

Karen Alexander seconded the motion with all members voting AYE.

(Mr. Huffman left the meeting at 6:20 p.m.)

OTHER BOARD BUSINESS

Salisbury Planning Board Committee #1 (Diane Young, Karen Alexander, and Robert Cockerl) nominated the current chair, Robert Cockerl, for another year as the Planning Board Chair. Vice chair Richard (Dick) Huffman also agreed to another term. Bill Wagoner made a MOTION to accept the nominations. All agreed. The Board voiced their appreciation for the Chair's and Vice Chair's work.

Sidewalk Text Amendment

City Council asked the Planning Board to look at the sidewalk amendment again. Could there be some sort of a financial or linear-feet cap? Planning Board sent the Sidewalk Text Amendment back to City Council as proposed with a vote of 6-0.

The next Planning Board meeting will be March 9, 2010.

There being no further business to come before the Planning Board the meeting was adjourned at 6:30 p.m.

Robert Cockerl, Chair

Diana Moghrabi, Secretary